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## LATHAM & WATKINS LLP

December 23, 2020

### VIA ECF AND HAND DELIVERY

Honorable Kenneth M. Karas  
United States District Judge  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, NY 10601

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# MEMO ENDORSED

Re: Culbreath v. Griffin, 17-CV-3406 (KMK)(AEK)

Dear Judge Karas:

We represent Plaintiff Jeffrey Culbreath in the above-captioned matter. Pursuant to Section IX of Your Honor's Individual Rules, the Southern District of New York's Sealed Records Filing Instructions, and Sections 14 and 15 of the Stipulation of Confidentiality and Protective Order ("Protective Order") entered by this Court on September 4, 2018 (Dkt. No. 62), we respectfully request leave to file under seal certain content in Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment and Plaintiff's Rule 56.1 Responsive Statement of Facts and Supplemental Facts, as well as certain exhibits appended to the accompanying Declaration of Kevin M. McDonough ("McDonough Declaration").<sup>1</sup>

The documents that Plaintiff seeks to file under seal have been designated or refer to documents designated as Confidential or Attorney's Eyes Only by Defendants pursuant to the Protective Order. Certain documents also contain or refer to trial testimony sealed by the Honorable Vincent L. Briccetti in the case entitled *Burns v. Nagy*, No. 16-CV-782 (VB) (S.D.N.Y.). See *Burns*, 2019 WL 2409737, at \*1 (S.D.N.Y. June 7, 2019). Pursuant to the Protective Order, Plaintiff seeks the Court's permission to file the documents under seal. Nothing in this request should be construed as an admission by Plaintiff that any of these documents is properly designated as "Confidential" or "Attorney's Eyes Only" or a waiver of Plaintiff's right to challenge any such designated materials.

Pursuant to Section II.C. of Your Honor's Individual Rules, complete unredacted copies of the documents will be submitted upon completion of the briefing of this motion. However, Plaintiff will submit unredacted documents upon request if it would be helpful to Your Honor to

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<sup>1</sup> Plaintiff seeks to file under seal Exhibits 2-22 and 24-28 of the McDonough Declaration, which have not been filed publicly.

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review them in consideration of Plaintiff's sealing request. Plaintiff has served complete and unredacted copies of the documents on Defendants' counsel.

We are available at Your Honor's convenience should the Court require any additional information.

Respectfully Submitted

*/s/ Kevin M. McDonough*

Kevin M. McDonough  
of LATHAM & WATKINS LLP

cc: All Counsel of Record (via ECF)

So ordered. The Court also directs Plaintiff to email unredacted copies of the above mentioned documents to Chambers.

White Plains, NY  
December 29, 2020



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KENNETH M. KARAS, U.S.D.J.